

Last Updated: February 2016

FORM 1 (ND/SD MISS. DEC. 2015)

**UNITED STATES DISTRICT COURT
CHOOSE DISTRICT: DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

United States of America

PLAINTIFF

v.

**CIVIL ACTION
No. 3:16-cv-34-CWR-FKB**

Third Coast Towing, LLC, et al.

DEFENDANTS

CASE MANAGEMENT ORDER

This Order, including all deadlines, has been established with the participation of all parties and can be modified only by order of the Court on a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record.

IT IS HEREBY ORDERED:

| | | |
|---|--|-----|
| 1. ESTIMATED DAYS OF TRIAL: | <u>7-10</u> | |
| ESTIMATED TOTAL NUMBER OF WITNESSES: | <u>10-14</u> | |
| EXPERT TESTIMONY EXPECTED: Yes | NO. OF EXPERTS: <table border="1"><tr><td>6-8</td></tr></table> | 6-8 |
| 6-8 | | |

2. ALTERNATIVE DISPUTE RESOLUTION [ADR].

Alternative dispute resolution techniques appear helpful and will be used in this civil action as follows:

Private mediation or a settlement conference with the Court is required in this matter. The parties are to schedule and complete same by the discovery deadline.

3. CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.

The parties do not consent to trial by a United States Magistrate Judge.

FORM 1 (ND/SD MISS. DEC. 2015)

4. DISCLOSURE.

The pre-discovery disclosure requirements of Fed.R.Civ.P.26(a)(1) and U.L.Civ.R. 16(d) and 26 (a) have been complied with fully.

5. MOTIONS; ISSUE BIFURCATION.

Staged resolution, or bifurcation of the issues for trial in accordance with FED. R. CIV. P. 42 (b) will assist in the prompt resolution of this action. Accordingly, the Court orders that:

See Briefing Schedule attached as Exhibit A.

Early filing of the following motion(s) might significantly affect the scope of discovery or otherwise expedite the resolution of this action:

Defendants Nature's Way and Environmental Pollution Group, LLC's (EPG) Motions for Summary Judgment on their counterclaim. United States' Cross-Motion for Summary Judgment on the counterclaim of Nature's Way and EPG.

6. DISCOVERY PROVISIONS AND LIMITATIONS.

- A. Interrogatories are limited to 30 succinct questions.
- B. Requests for Production are limited to 30 succinct questions.
- C. Requests for Admissions are limited to 30 succinct questions.
- D. Depositions are limited to the parties, experts, and no more than 7 fact witness depositions per party without additional approval of the Court.

FORM 1 (ND/SD MISS. DEC. 2015)

- E.** The parties have complied with the requirements of Local Rule 26(e)(2)(B) regarding discovery of electronically stored information and have concluded as follows [The parties MUST state whether or not there is ESI and, if so, how they propose to address it]:

The parties are in the process of negotiating the terms of a Stipulation on Discovery procedures which will be submitted to the Court once it is executed by the parties. The parties must submit the Stipulation to the undersigned by February 3, 2017.

F. The court imposes the following further discovery provisions or limitations:

- ☐ 1. The parties have agreed that defendant may obtain a Fed. R. Civ. P. 35 (L.U.Civ.R. 35) medical examination of the plaintiff (within subpoena range of the court) by a physician who has not examined the plaintiff, and that defendant may arrange the examination without further order of the court.
- ☒ 2. Pursuant to Rule 502(d) of the Federal Rules of Evidence, the attorney-client privilege and the work-product protections are not waived by any disclosure connected within this litigation pending before this Court. Further, the disclosures are not waived in any other federal or state proceeding.
- ☐ 3. Plaintiff must execute an appropriate, HIPAA-compliant medical authorization.
- ☒ 4. The court desires to avoid the necessity of filing written discovery motions where court participation in an informal discussion of the issue might resolve it, even after the parties have been unsuccessful in a good faith attempt to do so. Consequently, before a party may serve any discovery motion, counsel must first confer in good faith as required by F.R.Civ.P. 37(a)(1). If the attorney conference does not resolve the dispute, counsel must contact the chambers of the magistrate judge to request a telephonic conference to discuss the issue as contemplated by F.R.Civ.P. 16(b)(3)(v). Only if the telephonic conference with the judge is unsuccessful in resolving the issue may a party file a discovery motion.
- ☒ 5. Other:

For purposes of the limitations in section 6A-D above, Nature's Way and EPG will be treated as one party, and Third Coast and Great American will be treated as one party.

FORM 1 (ND/SD MISS. DEC. 2015)

Additional Provisions:

Discovery is hereby stayed pending a decision on the cross-motions for summary judgment on the counterclaim of Nature's Way and EPG. Another telephonic case management conference (TCMC) will be set after a ruling on the summary judgment cross-motions, and a scheduling order will be entered at that time.

7. SCHEDULING DEADLINES

A. Trial. This action is set for JURY TRIAL during a two-week term of court beginning on: _____, at 9:00, a.m., in Jackson, Mississippi, before United States District Judge Carlton W. Reeves.

ANY CONFLICTS WITH THIS TRIAL DATE MUST BE SUBMITTED IN WRITING TO THE TRIAL JUDGE IMMEDIATELY UPON RECEIPT OF THIS CASE MANAGEMENT ORDER.

B. Pretrial. The pretrial conference is set on: _____, at 9:00, a.m., in Jackson, Mississippi, before United States District Judge Carlton W. Reeves.

C. Discovery. All discovery must be completed by: _____.

D. Amendments. Motions for joinder of parties or amendments to the pleadings must be filed by: _____.

E. Experts. The parties' experts must be designated by the following dates:

1. Plaintiff(s): _____.

2. Defendant(s): _____.

FORM I (ND/SD MISS. DEC. 2015)

8. MOTIONS. All dispositive motions and *Daubert*-type motions challenging another party's expert must be filed by:_____.The deadline for motions *in limine* is fourteen days before the pretrial conference; the deadline for responses is seven days before the pretrial conference.

9. SETTLEMENT CONFERENCE.

A SETTLEMENT CONFERENCE is set on:_____, at 9:00 _____, a.m. in _____ Jackson _____, Mississippi, before United States Magistrate _____ Judge F. Keith Ball _____.

Seven (7) days before the settlement conference, the parties must submit via e-mail to the magistrate judge's chambers an updated CONFIDENTIAL SETTLEMENT MEMORANDUM. All parties are required to be present at the conference unless excused by the Court. If a party believes the scheduled settlement conference would not be productive and should be cancelled, the party is directed to inform the Court via e-mail of the grounds for their belief at least seven (7) days prior to the conference.

10. REPORT REGARDING ADR. On or before (7 days before FPTC) _____, the parties must report to the undersigned all ADR efforts they have undertaken to comply with the Local Rules or provide sufficient facts to support a finding of just cause for failure to comply. *See L.U.Civ.R.83.7(f)(3).*

SO ORDERED:

1/31/2017

DATE

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE

Briefing Schedule

Objections to Administrative Record Schedule:

February 3, 2017 - Filing of Objections to Administrative Record

February 10, 2017 - Responses to Objections to Administrative Record

February 17, 2017 - Reply to Responses to Objections to Administrative Record

Administrative Counter-Claim Summary Judgment Briefing Schedule:

March 3, 2017 - Counterclaimants' Motion for Summary Judgment

March 31, 2017 - United States' Cross-Motion for Summary Judgment and Reply to Counterclaimants' Motion for Summary Judgment

April 21, 2017 - Counterclaimants' Rebuttal in Support of its Motion for Summary Judgment and Reply to United States' Cross-Motion for Summary Judgment

May 5, 2017 - United States' Rebuttal in Support of its Cross-Motion for Summary Judgment